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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,076	06/27/2003	Frank Yang	PAT-1434CIP	7455
7590	07/09/2007			
Raymond Sun 12420 Woodhall Way Tustin, CA 92782			EXAMINER ELOSHWAY, NIKI MARINA	
			ART UNIT 3781	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/609,076	Applicant(s) YANG ET AL.	
	Examiner Niki M. Eloshway	Art Unit 3781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-17, 19-23 and 43-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 13-17, 19-23, 43-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Introduction

1. The following is a Non-Final Rejection issued in response to the amendment filed April 5, 2007.
2. Proposed allowable claim language is provided in the "Allowable Subject Matter" section below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 13, 15, 17, 19 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803) and Hirshman (U.S. 1,893,743).
Samson et al. teaches a trash can assembly 10 having a shell 12 with four side walls 14, 16, 18 and 20, and top edges at 26. The frame is element 92 and a hinged lid is shown at 28. Samson et al. teaches that the first and third side walls are longer than the second and fourth in lines 9-12 of the Abstract. However, Samson teaches a single lid hinged to the fourth wall, not a double lid hinged to the first and third walls.

Gora teaches that it is known to have a container with a double lid hinged to the longer sides. Hirshman teaches that it is known to provide a trash container with either a single hinged lid or a double hinged lid (see figures 1 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Samson et al. with a double lid hinged to the first and third sides, as taught by Gora and Hirshman, in order to allow the user to access a portion of the cavity without exposing the entire opening.

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5. Regarding claim 19, the modified assembly of Samson et al. discloses the claimed invention except for the slot and sleeve hinge arrangement. Gora teaches that it is known to provide an assembly wherein the hinge has a slot and sleeve arrangement (see figures 4, 5, 7 and 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the hinge arrangement of Gora, in order to provide a secure yet removable connection between the frame and the lid portions.

6. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803) and Hirshman (U.S. 1,893,743), as applied to claims 13 and 15 above, and further in view of Pfiefer et al. (U.S. 6,626,317). The modified assembly of Samson et al. discloses the claimed invention except for the lid being made of a different material. Pfiefer et al. teaches that it is known to provide a trash assembly with a metal lid (see col. 3 lines 46-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the lid portions being made of metal, as taught by Pfiefer et al., in order to give the assembly a more decorative appearance.

7. Claims 20, 22, 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803). The assembly of Samson et al. discloses the claimed invention except for the slot and sleeve hinge arrangement. Gora teaches that it is known to provide an assembly wherein the hinge has a slot and sleeve arrangement (see figures 4, 5, 7 and 8). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assembly of Samson et al. with the hinge arrangement of Gora, in order to provide a secure yet removable connection between the frame and the lid portions.

8. Claims 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Samson et al. (U.S. 5,147,055) in view of Gora (U.S. 4,663,803), as applied to claims 20 and 22 above, and further in view of Pfiefer et al. (U.S. 6,626,317). The modified assembly of Samson et al. discloses the claimed

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invention except for the lid being made of a different material. Pfiefer et al. teaches that it is known to provide a trash assembly with a metal lid (see col. 3 lines 46-60). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Samson et al. with the lid portions being made of metal, as taught by Pfiefer et al., in order to give the assembly a more decorative appearance.

9. Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knapp (U.S. 2,946,474) in view of Culbertson (U.S. 4,913,308), Hirshman (U.S. 1,893,743) and Wang (U.S. 6,010,024). Knapp teaches a trash can assembly having a shell 10, a base located below element 28, a hinged lid is shown at 18 and a toe kick recess housing element 22. Knapp does not teach that the rectangular shape wherein the first and third side walls are longer than the second and fourth side walls, the second lid portion, or the base being of a different material. Culbertson teaches that it is known to have a shell with four side walls (see figure 1) wherein two side walls are longer than the remaining two. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the trash can assembly of Knapp with the shell having a rectangular cross section, as taught by Culbertson, in order to enlarge the cavity of the shell.

Hirshman teaches that it is known to provide a trash container with either a single hinged lid or a double hinged lid (see figures 1 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Knapp with a second hinged lid, as taught by Hirshman, in order to allow the user to access a portion of the cavity without exposing the entire opening.

Wang teaches that it is known to provide a trash container with a base of a different material (see figure 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Knapp with the base being plastic, as taught by Wang, in order to better resist corrosion due to leakage from the container cavity.

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Regarding claim 47, Wang also teaches that it is known to provide a trash container with a dampening mechanism (see element 917). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified assembly of Knapp with a dampening mechanism, as taught by Wang, in order to better control the movement of the lid.

Allowable Subject Matter

10. The following claims drafted by the examiner and considered to distinguish patentably over the art of record in this application, are presented to applicant for consideration:

Examiner's Proposed Amendment to claim 13— A trash can assembly, comprising: a shell having four side walls that define a perimeter, the four side walls connected to each other to form an elongated configuration, the four side walls comprising a first side wall, a second side wall, a third side wall and a fourth side wall, with the first and third side walls being opposite and parallel to each other, and with the second and fourth side walls being opposite to each other;

wherein each side wall has a top edge, with the top edges of the side walls defining an open top for the shell;

a frame that is secured to the top edges of the side walls, the frame defining a perimeter;

wherein the first and third side walls are straight, and are longer than the second and fourth side walls;

wherein the fourth side wall is a straight rear wall and the second side wall is curved as it extends from the first side wall to the third side wall;

a first elongated lid portion having a side edge hingedly coupled to the frame at a first hinge connection above the top edge of the first side wall, such that the first elongated lid portion and first hinge connection are within the perimeter of the frame;

a second elongated lid portion having a side edge hingedly coupled to the frame at a second hinge connection above the top edge of the third side wall, such that the second elongated lid portion and second hinge connection are within the perimeter of the frame; and

wherein the frame has an upper edge that has the same perimeter as the shell. ---

Examiner's Proposed Amendment to claim 19— The assembly of claim 13:

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wherein the frame defines a first elongated slot along the top edge of the first side wall within the perimeter of the frame, and a second elongated slot along the top edge of the third side wall within the perimeter of the frame; and

wherein each lid portion has a sleeve provided along its side edge, with the sleeve of the first lid portion received inside the first elongated slot to hingedly couple the first lid portion to the top edge of the first side wall, and the sleeve of the second lid portion received inside the second elongated slot to hingedly couple the second lid portion to the top edge of the third side wall;

such that said first hinge connection comprises said first elongated slot and the sleeve of the first lid portion, and said second hinge connection comprises said second elongated slot and the sleeve of the second lid portion. ---

The language added to proposed claim 13, above, or similar language may be added to claim 43.

Response to Arguments

11. Applicant's arguments filed April 5, 2007 have been fully considered but they are not persuasive. Applicant argues that Samson does not teach a frame with the same perimeter as the shell. It is the examiner's position that element 92 can be considered the frame and, as shown in figure 5, the frame does not extend beyond the top lid of the shell. The lip at 60 defines the perimeter of the shell and the outer edge of the frame 92 has the same perimeter as the shell.

12. Regarding Gora, the hinge arrangement is located inwardly of the perimeter of the container. Although Gora does not teach a frame, the frame is present in the primary reference of Samson. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

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13. Regarding the hinge elements, there are two ways to interpret Gora in order to meet the claim limitations. First, the slots of the frame may be considered the axially inwardly extending slots between elements 33 which receive sleeves 30 of the lid portions. Second, the slots of the frame may be considered to be the slot/space, shown in figures 4, 9 and 10 between element 34 and the top edge of 10, which receive the sleeves at 28 of the lid portions.

14. The separate base of the container is taught by the secondary reference of Wang. The teachings of Wang support modification of a trash can to form elements separately and of different materials for later assembly.

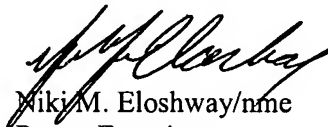
Conclusion

15. **In view of the addition of Gora to the rejection of claims 13-17, 19 and 48, THIS ACTION IS MADE NON-FINAL.**

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Thursdays and Fridays 8 a.m. to 4 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Miki M. Eloshway/nme
Patent Examiner

June 28, 2007



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